

**STATE OF TENNESSEE  
DEPARTMENT OF HEALTH**

<b>IN THE MATTER OF:</b>	)	<b>BEFORE THE TENNESSEE BOARD</b>
	)	<b>OF MEDICAL EXAMINERS</b>
<b>RICHARD E. POEHLEIN, M.D.</b>	)	
<b>RESPONDENT</b>	)	<b>CASE NO: 2012015771</b>
	)	
<b>KNOXVILLE, TENNESSEE</b>	)	
<b>TENNESSEE LICENSE NO. 7140</b>	)	

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**CONSENT ORDER**

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Comes now the Division of Health Related Boards of the Tennessee Department of Health (hereinafter the "Division"), by and through the Office of General Counsel, and Respondent, Richard E. Poehlein, M.D., (hereinafter "Respondent"), who would respectfully move the Tennessee Board of Medical Examiners (hereinafter the "Board") for approval of this Consent Order affecting Respondent's medical license in the State of Tennessee.

The Board is responsible for the regulation and supervision of medical doctors licensed to practice in the State of Tennessee. *See Tennessee Medical Practice Act, Tennessee Code Annotated Section (hereinafter "TENN. CODE ANN.") § 63-6-101, et seq.* It is the policy of the Board to require strict compliance with the laws of this State, and to apply the laws so as to preserve the quality of medical care provided in Tennessee. It is the duty and responsibility of the Board to enforce the Tennessee Medical Practice Act in such a manner as to promote and protect public health, safety, and welfare in every practicable way, including disciplining medical doctors who violate the provisions of TENN. CODE ANN. § 63-6-101, *et seq.* or the Rules and Regulations promulgated by the Board and recorded in the Official Compilation Rules and Regulations of the State of Tennessee (hereinafter "TENN. COMP. R. & REGS.").

Respondent, Richard E. Poehlein, M.D., by his signature to this Consent Order, waives the right to a contested case hearing and any and all rights to judicial review in this matter. Respondent agrees that presentation to and consideration of this Consent Order by the Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should this Order not be ratified. Likewise, all matters, admissions, and statements disclosed or exchanged during the attempted ratification process shall not be used against Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to challenge or contest the validity of this Consent Order. Respondent understands that by signing this Consent Order, Respondent is allowing the Board to issue its order without further process. Respondent acknowledges that this is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank and/ or a similar agency. In the event that the Board rejects this Consent Order for any reason, it will be of no force or effect for either party.

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## **I. STIPULATIONS OF FACT**

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1. Respondent has been at all times pertinent hereto licensed by the Board as a medical doctor in the State of Tennessee, having been granted Tennessee medical license number 7140 by the Board on January 1, 1971, which has a current expiration date of April 30, 2016.

2. The Department conducted an investigation that included the review of seventeen (17) of the patient records prepared and kept by Respondent for his patients from at least January 1, 2011 to the present.
3. The treatment Respondent provided to some patients included prescribing buprenorphine and benzodiazepines, a combination that is contraindicated when treating addiction with opioids.
4. Respondent's charts reflected little documentation appropriate for the prescribing of benzodiazepines.
5. Respondent allows his patients to fail many urine drug screens before he determines that discharge is appropriate.
6. Respondent failed to consistently make a personal review, and/or failed to consistently certify that he had made a personal review of the historical, physical, and therapeutic data in the charts of his advance practice nurse or physician assistant extenders.

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## II. GROUNDS FOR DISCIPLINE

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The facts stipulated to in the Stipulations of Fact are sufficient to establish that grounds for discipline of Respondent's medical license exist. Specifically, Respondent has violated the following statutes or rules which are part of the Tennessee Medical Practice Act, (TENN. CODE ANN. § 63-6-101, *et seq.*) for which disciplinary action before and by the Board is authorized:

7. The facts stipulated in paragraphs 3 through 6, *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(1):

Unprofessional, dishonorable or unethical conduct.

8. The facts stipulated in paragraphs 3 through 5, *supra*, constitute a violation of TENN.

CODE ANN. § 63-6-214(b)(14):

Dispensing, prescribing or otherwise distributing any controlled substance, controlled substance analogue or other drug to any person in violation of any law of the state or of the United States.

9. The facts stipulated in paragraphs 3 through 5, *supra*, constitute a violation of TENN.

COMP. R. & REG. RULE 0880-2-.14 (7)(a):

Except as provided in subparagraph (b), it shall be a prima facie violation of T.C.A. § 63-6-214 (b) (1), (4), and (12) for a physician to prescribe or dispense any drug to any individual, whether in person or by electronic means or over the Internet or over telephone lines, unless the physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, has first done and appropriately documented, for the person to whom a prescription is to be issued or drugs dispensed, all of the following:

1. Performed an appropriate history and physical examination; and
2. Made a diagnosis based upon the examinations and all diagnostic and laboratory tests consistent with good medical care; and
3. Formulated a therapeutic plan, and discussed it, along with the basis for it and the risks and benefits of various treatments options, a part of which might be the prescription or dispensed drug, with the patient; and
4. Insured availability of the physician or coverage for the patient for appropriate follow-up care.

10. The facts stipulated in paragraph 6, *supra*, constitute a violation of TENN. COMP. R. &

REG. RULE 0880-06-.02(7):

Once every ten (10) days the supervising physician shall make a personal review of the historical, physical and therapeutic data and shall so certify by signature on any patient within thirty (30) days:

(e) When a controlled drug has been prescribed.

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### III. POLICY STATEMENT

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The Tennessee Board of Medical Examiners takes this action in order to protect the health, safety, and welfare of the citizens of the State of Tennessee.

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#### IV. ORDER

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NOW THEREFORE, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

11. The Tennessee medical license of Richard E. Poehlein, M.D., license number 7140, is hereby **REPRIMANDED**.
12. Respondent must enroll in and successfully complete within ninety (90) days of entry of this Order, the three (3) day medical course entitled "*Intensive Course in Medical Record Keeping*" offered at The Case Western Reserve University Continuing Medical Education Program at The Case Western Reserve University School of Medicine located in Cleveland, Ohio, or an equivalent course pre-approved by the Board's Consultant. Within thirty (30) days after completion of such course, Respondent shall mail or deliver proof of compliance with this course requirement to: **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243**. Any Continuing Medical Education (hereinafter "CME") course hours earned from attendance and completion of the course required by this paragraph shall be in addition to the CME hours required to maintain licensure.
13. Respondent must enroll in and successfully complete, within ninety (90) days of the entry of this Order, the three (3) day medical course entitled, "*Prescribing Controlled Drugs: Critical Issues and Common Pitfalls*" offered by Vanderbilt University Medical Center or an equivalent course approved in advance in writing by the Board's Medical Director. Within thirty (30) days after completion of such course, Respondent shall mail or deliver

proof of compliance with this course requirement to: **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243.** Any CME course hours earned from attendance and completion of the course required by this paragraph shall be in addition to the CME hours required to maintain licensure.

14. Respondent is assessed and must pay, pursuant to TENN. CODE ANN. §63-6-214 and Rule 0880-02-.12(1)(h) of the Official Compilation Rules and Regulations of the State of Tennessee, seventeen (17) Type “C” Civil Penalties in the amount of one hundred dollars (\$100.00) for a total Civil Penalty of **One Thousand Seven Hundred Dollars (\$1,700.00).**
15. Respondent must pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and Rule 0880-02-.12(1)(j) of the Official Compilation Rules and Regulations of the State of Tennessee, the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the Division’s Bureau of Investigations in connection with the prosecution of this matter. These costs will be established by an Assessment of Costs prepared and filed by counsel for the Division. The maximum amount for the assessment of costs shall be two thousand dollars (\$2,000.00).
16. Respondent understands that this is a formal disciplinary action and will be reported to the National Practitioner Data Bank (N.P.D.B.) and/or similar agency.

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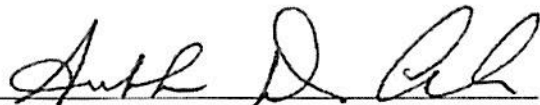
## V. NOTICE

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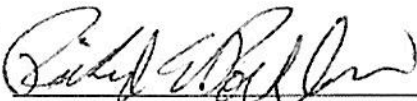
17. Any and all civil penalties and costs shall be paid in full within ninety (90) days from the issuance of the Assessment of Costs. Payment shall be made by **certified check, cashier’s check, or money order**, payable to the **State of Tennessee**, Department of

Health. Any and all payments shall be forwarded to the **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243**. A notation shall be placed on said money order or such check that it is payable for the Civil Penalty and Costs of Richard E. Poehlein, Case No. 2012015771.

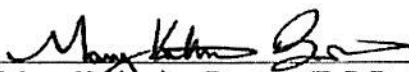
This **CONSENT ORDER** was approved by a majority of a quorum of the Tennessee Board of Medical Examiners at a public meeting of the Board and signed this 18~~th~~ day of March, 2015.

  
Chairperson  
Tennessee Board of Medical Examiners

**APPROVED FOR ENTRY:**

  
Richard E. Poehlein, M.D.  
Respondent  
Tennessee License Number 7140  
930 Adell Ree Park Lane  
Knoxville, TN 37909

2/11/15  
DATE

  
Mary Katherine Bratton (B.P.R. # 030083)  
General Counsel  
Office of General Counsel  
Tennessee Department of Health  
665 Mainstream Drive, 2<sup>nd</sup> Floor  
Nashville, Tennessee 37243  
(615) 741-1611

3/18/15  
DATE

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of this document has been served upon Respondent, Richard E. Poehlein, M.D., 930 Adell Ree Park Lane, Knoxville, TN 37909, by delivering same in the United States Mail, Certified Number 704349000066068824, return receipt requested, and United States First Class Postage Pre-Paid Mail, with sufficient postage thereon to reach its destination

This 19<sup>th</sup> day of March, 2015.



Mary Katherine Bratton  
Assistant General Counsel  
Tennessee Department of Health